

COMMENTS OF THE ILLINOIS COMPETITIVE ENERGY ASSOCIATION

83 Il. Adm. Code 465

ICC Staff Request for Comments on Draft Net Metering Rule

I. Introduction

The Illinois Competitive Energy Association ("ICEA") appreciates the opportunity to provide comments to ICC Staff ("Staff") regarding draft changes to Part 465 Rules in its notice of June 28, 2013. While ICEA's proposed changes do not directly concern the recent legislative changes made to Section 16-107.5 of the Public Utilities Act, ICEA is confident that they will promote the use of net metering and customer satisfaction. ICEA believes that the participants in the anticipated conference call and workshop regarding the comments and next steps would benefit from a discussion of these changes as well.

II. ICEA Proposed Changes to Draft Net Metering Rules

ICEA's proposed changes to Staff's Draft Net Metering Rules are submitted below in legislative style.

Section 465.05 Definitions

Terms defined in Section 16-102 of the Public Utilities Act (Act) [220 ILCS 5/16-102] shall have the same meaning for purposes of this Part as they have under Section 16-102 of the Act, unless further defined in this Part.

"Annual period" means the period of 12 consecutive monthly billing periods ending on the last day of either the net metering customer's April monthly billing period or its October monthly billing period, whichever was selected by the customer in connection with its application for net metering.

"Avoided costs" means the incremental costs to the electricity provider of electric energy or capacity or both, which, but for the purchase from an eligible customer, the electricity provider would generate itself or purchase from another source.

"Electric utility" means a public utility, as defined in Section 5/3--105 [220 ILCS 5/3-105] of the Act, that has a franchise, license, permit or right to furnish or sell electricity or light, except when used solely for communications purposes, to retail customers within a service area, as both of these terms are defined in Section 5/16-102 of the Act.

"Electricity provider" means an electric utility, whether providing services within or outside of its service area, or an alternative retail electric supplier- that is providing electric supply service to a net metering customer.

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"Eligible customer" or "customer" means a retail customer that owns or operates a solar, wind, or other eligible renewable electrical generating facility with a rated capacity of ~~up to~~ not more than 2,000 kilowatts that is located on the customer's premises and is intended primarily to offset the customer's own electrical requirements.

"Eligible renewable electrical generating facility" means a generator ~~up to or generators~~ with a total rated capacity of not more than 2,000 kilowatts powered by solar electric energy, wind, dedicated crops grown for electricity generation, agricultural residues, untreated and unadulterated wood waste, landscape trimmings, livestock manure, anaerobic digestion of livestock or food processing waste, fuel cells or microturbines powered by renewable fuels, or hydroelectric energy.

"Net electricity metering" or "net metering" means measurement during the billing period applicable to an eligible customer of the net amount of electricity supplied by an electricity provider to the customer's premises or provided to the electricity provider by the customer.

"Net purchaser of electricity" means that the total amount of generation produced by the customer is less than the customer's total usage during ~~the~~ applicable ~~billing~~ billingtime period.

"Net seller of electricity" means that the total amount of generation produced by the customer is greater than the customer's total usage during ~~the~~ applicable ~~billing~~ billingtime period.

"Non-competitive customer" means a net metering customer whose class of electric service had not been declared competitive pursuant to Section 16-113 of the Act prior to July 1, 2011, including:

all residential retail customers;

all non-residential retail customers with peak demands of less than 100 kilowatts if located in the service territory of an electric utility serving at least three million retail customers; and

all non-residential retail customers with peak demands of less than 150 kilowatts if located in the service territory of an electric utility serving at least one million retail customers.

"Time of use rate" means any contract or tariff under which the kWh price for electric power and energy supply is not uniform over all of the hours in a billing period.

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Section 465.10 Application of Part 465

This Part shall apply to all Illinois electric utilities and alternative retail electric suppliers as defined in the Act in accordance with Section 16-107.5 of the Act [220 ILCS 5/16-107.5].

Section 465.20 Purpose of this Part

The purpose of this Part is to establish standards for net metering in accordance with the requirements of Section 16-107.5 of the Act. Nothing in this Part is intended to conflict with or supersede 83 Ill. Adm. Code 452.

Section 465.30 Tariffs

Each electric utility subject to Section 16-107.5 of the Act shall file a tariff with the Illinois Commerce Commission (Commission) in compliance with Section 16-107.5 of the Act and this Part.

Section 465.35 Net Metering Application and Enrollment Procedures

- a)- Each electricity provider shall establish an application form and procedures to enable eligible customers to participate in the net metering program offered by the electricity provider.
- b)- An electricity provider may establish an enrollment cap of ~~15~~45% of the peak demand supplied by the electricity provider in the previous calendar year in accordance with Section 16-107.5(j) of the Act. Nothing in this Part alters the authority of electricity providers to offer net metering beyond the limitations in Section 16-107.5(j) of the Act, if they so choose. ~~Applicable electric utilities (e.g., Illinois Power Company, Central Illinois Light Company, Central Illinois Public Service Company, Commonwealth Edison Company and MidAmerican Energy Company) shall limit the number of eligible customers with generators that have a nameplate rating of 40 kilowatts and below to 200 new billing accounts until March 31, 2009.~~
- e) ~~Each electricity provider shall establish an open enrollment period to receive net metering applications during the first month that net metering is available. If an electricity provider receives applications in excess of any applicable limits set forth in subsection (b), that provider shall determine enrollment priority by lottery. Applications will not be accepted prior to the start of the open enrollment period. This subsection does not prohibit an electricity provider from providing an~~

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- ~~initial preference for customers that are already participating in net billing or other programs similar to net metering that are offered by that provider.~~
- ~~d) After the end of the open enrollment period, or after any applicable limit provided for in subsection (b) has been met, whichever comes first, net~~
- c) Net metering enrollment priority shall be established on a first-come, first-served basis, according to an electricity provider's date stamp indicating receipt of a completed net metering application. ~~Applicants that applied during the open enrollment period that did not establish enrollment priority during the open enrollment period shall have their enrollment priority established in accordance with this subsection (d) based upon the date stamp of the application submitted during the open enrollment period.~~
- ~~e)-d)~~ Each completed application for net metering services shall be in writing and shall include:
- 1)- The customer's name, contact information and corresponding service location where the proposed net metering generation facility or facilities are located;
 - 2)- The name plate capacity rating of the proposed net metering generation facility or facilities; and
 - 3)- Sufficient information to permit the electricity provider to determine whether any facility on the application qualifies as an eligible renewable electrical generating facility.
- ~~fe)~~ Electricity providers shall provide applicants with a single point mailing address for all net metering applications to which a completed application must be sent. Electricity providers may establish an electronic net metering application process. Electricity providers shall date-stamp each completed application upon receipt and completeness determination. Upon receipt of a completed and executed application, electricity providers shall, within 10 business days after receipt of an application or completion of an open enrollment period, notify an applicant as to whether it is authorized to participate in the electricity provider's net metering program. An electricity provider shall state, in writing, its reasons for denying a prospective net metering customer's application. An electricity provider shall not deny a prospective net metering customer's application in a manner that violates this Part, 83 Ill. Adm. Code 466 or Section 16-107.5 of the Act.
- ~~g)-f)~~ If an electricity provider denies an application due to the cap provided for in subsection (b), the electricity provider shall offer the applicant the opportunity to be placed on a waiting list. If space becomes available under the cap, due to either

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attrition among enrolled customers or an increase in the electricity provider's peak demand, wait-listed customers shall be processed before new applications.

~~h-g)~~ Any authorization to net meter shall remain effective for as long as the customer remains eligible for net metering and continues taking generation service from the electricity provider, subject to the limitations in subsections ~~(hg)~~(1) and ~~(hg)~~(2).

1) A customer authorized to net meter under subsection ~~(fe)~~ shall submit an executed application for interconnection, pursuant to 83 Ill. Adm. Code 466, to the electric utility within 30 business days after the date of the notification from the electricity provider pursuant to subsection ~~(fe)~~. An electricity provider may cancel the authorization if the customer has not submitted an executed application by the required date.

2)- The following provisions apply to any electricity provider that establishes enrollment limits, as provided for in subsection (b):

A) The electricity provider may cancel a customer's authorization to net meter if the customer has not executed an interconnection agreement pursuant to 83 Ill. Adm. Code 466 with the customer's electric utility within 12 months after receiving the interconnection agreement from the electric utility.

B)- The electricity provider must automatically extend the authorization to net meter by an additional six months for an eligible customer that has executed an interconnection agreement within 12 months after receiving the interconnection agreement from the utility, but whose eligible renewable electrical generating facility has not commenced operation and passed any applicable witness test.

C)- A customer seeking to extend the authorization to net meter for an additional six months pursuant to Section g(2)(B) must pay a deposit of \$25 for each kilowatt of the nameplate rating of the customer's eligible renewable electrical generating facility, which shall be refunded only if the facility commences operation and passes any applicable witness test. A customer may only receive a single six-month extension.

~~h-h)~~ With respect to any customer that has been authorized for net metering offered by an electricity provider that is not the electric utility providing delivery service to the customer, the electricity provider must notify the electric utility of athe

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customer's status as a net metering customer within days of such authorization.

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i) ~~i)~~ With respect to any customer that has had its authorization for net metering canceled by an electricity provider that is not the electric utility providing delivery service to the customer, the electricity provider must notify the electric utility of the customer's status as a canceled net metering customer within days of such cancellation.

j) With respect to any non-competitive customer authorized for net metering offered by an electric utility that is switching to an alternative retail electric supplier, the customer shall remain authorized to receive net metering for electric utility distribution charges without interruption or further enrollment requirements with the electric utility upon switching to the alternative retail electric supplier.

k) With respect to any non-competitive customer authorized for net metering offered by an electric utility that is switching to an alternative retail electric supplier, the electric utility must notify the alternative retail electric supplier via an electronic method approved by the utility of the customer's status as a net metering customer.

Section 465.40 Reporting Requirements

The report required by Section 16-107.5(k) of the Act shall be filed with the ~~Manager~~Chief Clerk of the ~~Energy Division of the Illinois Commerce~~ Commission by April 1 of each year ~~beginning in 2009~~. The report shall include all information required under Section 16-107.5(k) of the Act, including, but not limited to, the following information: the total peak demand supplied by the electricity provider during the previous year; the total generating capacity of its net metering customers; if the total generating capacity of its net metering customers is equal to or in excess of the 5% cap whether the electricity provider intends to limit total generating capacity of its net metering customers to ~~15~~5%; and, the electricity provider's total number of net metering customers.

Section 465.50 Electricity Provider Billing for Eligible Customers

- a)- Billing for ~~all residential~~non-competitive customers ~~and non-residential customers with generators no greater than 40kW~~
- 1) ~~Customers~~ taking ~~services~~electric supply service under rates other than time of use rates and whose delivery services are charged on a kilowatt-hour or kilowatt-demand basis

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- A) ~~The electric shall determine whether the customer is a net purchaser of electricity or a net seller of electricity during the billing period.~~
- ~~BA)~~ If ~~thea~~ customer is a net purchaser of electricity during the billing period, the electricity provider shall assess charges on the net amount purchased at the tariffed or contract rate, as appropriate, under which; the customer is taking service from the electricity provider. To the extent that the electric utility is not the electricity provider, the electric utility shall assess charges for delivery and other provided services at the tariffed rate under which the customer is taking electric service from the electric utility.
- ~~EB)~~ If ~~thea~~ customer is a net seller of electricity during the billing period, the customer shall receive a 1:1 kilowatt-hour credit from the electricity provider that is equal to the net kilowatt-hours supplied by the customer during the billing period. To the extent that the electric utility is not the electricity provider, the customer shall receive a 1:1 kilowatt-hour credit for delivery service from the electric utility that is equal to the net kilowatt-hours delivered to the electric utility's system by the customer during the billing period.
- ~~DC)~~ In the event the electricity provider is not the electric utility providing delivery service to the customer, the electric utility shall provide the electricity provider the summary billing information that matches the sum of the half-hour interval data for the net kilowatt-hours supplied by the customer during the billing period. The billing detail and summary for each month shall include the previous months kilowatt-hour credits if applicable.---
- ~~D)~~ Any credits received by the customer will be carried over to subsequent billing periods. Unused credits will expire at the end of the annual period or earlier in the event the customer terminates service from the electricity provider.
- ~~2E)~~ Customers remain responsible for all taxes, fees, and utility delivery charges that would otherwise be applicable to the net amount of electricity used by the customer.
- b) Billing for non-competitive customers taking electric supply service under time of use rates and whose delivery services are charged on a kilowatt-hour basis
- ~~A)-~~ ~~The electric utility shall determine whether the customer is a net purchaser of electricity or a net seller of electricity during each discrete time period~~

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~~for which the tariffed or contract rate for electricity supply, as appropriate, is applicable. For each time period, the electricity provider shall multiply the tariffed or contract rate for electricity supply, as appropriate, by the amount purchased or sold by the customer to determine each time period's charge or credit. These amounts shall be summed to determine the net energy charge or credit for the billing period.~~

~~BA)~~ ~~If~~ For the discrete time periods in which the customer is a net purchaser of electricity, the electricity provider shall charge the customer ~~will remain responsible for all taxes, fees and utility delivery charges that would otherwise be applicable to the net amount of electricity supplied to and used by the customer; according to the terms of the contract or tariff to which the same customer would be assigned to or be eligible for if the customer was not a net metering customer.~~

~~C)~~ ~~If~~ CB) For the discrete time periods in which the customer is a net seller of electricity, the customer shall receive a monetary credit from the electricity provider that ~~is equal to the~~ consists of an energy credit and a delivery credit. The energy credit for a discrete time period is determined for by multiplying the net electricity supplied during the billing period, plus discrete time period by the same price per kilowatt-hour as the electric service provider would charge for kilowatt-hour energy sales during that same time period. The delivery credit is determined by multiplying the net electricity supplied during the discrete time period by a credit that reflects all kilowatt-hour based delivery electricity charges multiplied by applicable to the net customer electric service rate, excluding energy supplied over the billing charges, for that discrete time period. When eligible customers receive service under an electricity provider's electric utility's bundled service rates, the monetary credit shall be equal to the applicable kilowatt-hour based bundled service charges, multiplied by the net energy electricity supplied over the billing period. In the event that the electricity provider is not the electric utility, the monetary credit for delivery service shall be provided by the electric utility. Any monetary credits received by the customer will be carried over to subsequent billing periods. Unused credits will expire at the end of the annual period or earlier in the event that the customer terminates service from the electricity provider. For purposes of calculating the customer's electricity bill, any credits may be used to offset other charges assessed by the electricity provider. ~~services shall be provided by the electric utility.~~

C) In the event the electricity provider is not the electric utility providing delivery service to the customer, the electric utility shall provide the

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electricity provider the summary billing information that matches the sum of the half-hour interval data for the net kilowatt-hours supplied by the customer during the billing period. The billing detail and summary for each month shall include the previous month kilowatt-hour credits if applicable.

b _____

D) Customers remain responsible for all taxes, fees, and utility delivery charges that would otherwise be applicable to the net amount of electricity used by the customer.

c) Billing for ~~non-residential~~ eligible customers ~~with generators over 40 kW and no greater than 2,000 meters~~

1) ~~Customers that are not addressed in subsections (a) and (b) of this Section 465.50 taking electric supply service under rates other than time of use rates and whose delivery services are charged on a kilowatt demand basis~~

A) ~~The electric utility shall determine whether the customer is a net purchaser of electricity or a net seller of electricity during the billing period.~~

A) If the customer is a net purchaser of electricity during the billing period, the electricity provider shall apply the applicable tariffed or contract rate, as applicable, to the net amount purchased. If the customer is a net seller of electricity, the electricity provider shall compensate the customer for any excess kilowatt-hour credits at the electricity provider's avoided cost of electricity supply ~~over the monthly period or as otherwise specified by the terms of a power-purchase agreement negotiated between the customer and electricity provider.~~ For purposes of calculating the customer's electricity bill, any resulting credits may be used to offset other charges assessed by the electricity provider.

B) In the event the electricity provider is not the electric utility providing delivery service to the customer, the electric utility shall provide the electricity provider the summary billing information that matches the sum of the half-hour interval data for the net kilowatt-hours supplied by the customer during the billing period. The billing detail and summary for each month shall include the previous months kilowatt-hour credits if applicable.

B) ~~The electric utility shall assess delivery charges, fees and taxes on the gross amount of electricity supplied to the eligible customer, regardless of whether the eligible customer is a net purchaser or a net seller.~~ When

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an eligible customer receives service under an ~~electricity provider's~~electric utility's bundled service rates, delivery charges shall be the applicable bundled service rate under which that customer purchases electric service. For the purposes of calculating the customer's bill, any compensation to the customer may be used to offset other charges assessed by the utility.

~~2) Non-residential~~C) Customers remain responsible for all taxes, fees, and utility delivery charges that would otherwise be applicable to the gross amount of electricity supplied to the eligible customer by the electricity provider.

d) Billing for eligible customers that are not addressed in subsections (a) and (b) of this Section 465.50 taking electric supply service under time of use rates

- A) The ~~electric utility~~electricity provider shall determine whether the customer is a net purchaser of electricity or a net seller of electricity during each discrete time period. For each discrete time period, the electricity provider shall multiply the applicable rate to the amount purchased or sold by the customer to determine each discrete time period's charge or credit. These amounts shall be summed to determine the net energy charge or credit for each billing period.
- B) The electric utility shall assess delivery charges, fees and taxes on the gross amount of electricity supplied to the eligible customer, regardless of whether the eligible customer is a net purchaser or a net seller. In the case of an eligible customer receiving service under an ~~electricity provider's~~electric utility's bundled service rates, delivery services charges shall be the applicable bundled service rate under which the customer purchases electric services. For the purpose of calculating the customer's bill, any compensation to the customer may be used to offset other charges assessed by the electric utility.

C) Customers remain responsible for all taxes, fees, and utility delivery charges that would otherwise be applicable to the gross amount of electricity supplied to the eligible customer by the electricity provider.

Section 465.60 Complaint Procedures

Complaints alleging violations of this Part shall be filed pursuant to 83 Ill. Adm. Code 200.

Section 465.70 Penalty Provisions

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- a) Upon complaint or on the Commission's own motion, the Commission may conduct an investigation of an electricity provider's actions under any Section of this Part. The Commission may, after notice and hearing:
 - 1) order an electricity provider to cease and desist or correct any violation of, or nonconformance with, any provision of this Part;
 - 2) require an electricity provider to make due reparations or refunds as permitted by statute;
 - 3) impose financial penalties for violations of, or non-conformance with, the provisions of this Part as permitted under the Act;
 - 4) take other remedial and preventive action as provided for under the Act.
- b) These remedies shall be cumulative and may be imposed in addition to other remedies that the Commission may have the authority to impose.

Section 465.80 Miscellaneous Provisions

- a) In accordance with Section 16-107.5(e) and (g) of the Act, nothing in this Part is intended to prevent an arms-length agreement between an electricity provider and an eligible customer that either sets forth different prices, terms and conditions for the provision of net metering service, including, but not limited to the provision of the appropriate metering equipment for non-residential customers, or that sets forth the ownership or title of renewable energy credits. In accordance with Section 16-107.5(m) of the Act, nothing in this Part is intended to affect any existing retail contract between an alternative retail electric supplier and an eligible customer.
- b) Nothing in this Part shall be construed to impose upon an alternative retail electric supplier any additional obligation that it does not otherwise have pursuant to the Act.

Respectfully submitted,

Kevin Wright, President
July 22, 2013